IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR No. 72 of 2000

Decided on : September 27, 2006

Union of India and others **…..Petitioners.**

VERSUS

Padam Chand Gupta **…..Respondent.**

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The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the petitioners : **Mr. Janesh Mahajan, Central Government Consel.**

For the Respondent : **Mr. Bhupender Gupta, Senior Advocate, with Mr. Ajit Jaswal, Advocate.**

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Respondent-landlord Padam Chand Gupta filed a composite petition, under Sections 14, 4(2)(b) and 6 of the H.P. Urban Rent Control Act, against the Revision Petitioners (hereinafter called tenants). It was alleged that certain premises, owned by the respondent-landlord, had been leased out to the tenants on monthly rent of Rs.380/-. In the year 1983, some additions and alterations were made to the leased premises on the asking of the tenants and the rent was enhanced to Rs.700/- on completion of such additions and alterations. Some further improvements/additions were made 2-3 months after the aforesaid improvements/additions on the asking of the tenants. The respondent-landlord then asked for increase in the rent, on account of such further improvements and additions. Matter remained pending with the tenants for quite some time. In 1993, the tenants offered to pay rent at the rate of Rs.1150/- per month, which was

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Whether the reporters of the local papers may be allowed to see the Judgment?

not accepted to the landlord. Ultimately, the tenants offered to pay rent at the rate of Rs.1883/-, but from 1.3.1993. It appears that the landlord wanted the enhanced rent (on account of further improvements and additions) to be paid from the date when such further improvements/ additions were completed. The landlord then filed a petition, seeking ejectment of the tenants, on the ground of non-payment of rent and also for fixation/ enhancement of fair rent, under Sections 4(2)(b) and 6 of the H.P. Urban Rent Control Act.

3. Learned Rent Controller fixed the fair rent at Rs.1900/- per month and ordered its payment from the date of the filing of the petition, i.e. 14.2.1995. The landlord felt aggrieved by the order to the extent it directed the payment of the rent at the aforesaid rate of Rs.1900/- from the date of the filing of the petition and not from the date when further improvements/ additions were made. So, he filed an appeal.

4. The Appellate Authority, vide its order dated 27.9.1999, accepted the appeal and ordered that the rent at the rate of Rs.1900/- be paid from 1.6.1984, the assumed date of the completion of further improvements/additions.

5. Tenants are aggrieved by the aforesaid order of the Appellate Authority and have filed the present revision petition.

6. According to the learned Central Government Counsel, the Appellate Authority could not have passed an order for the payment of fair rent from a date prior to the date of the application, in view of the provision of sub-section (5) of Section 4 of the H.P. Urban Rent Control Act. The learned counsel representing the respondent says that the Appellate Authority has passed the order not under Section 4 of the H.P. Urban Rent Control Act but under Section 6 of the said Act.

7. From the facts of the case, as summarized hereinabove, it is clear that initially the rent was fixed at Rs.380/-, in the year 1981, when the

premises were leased out. In the year 1983, some additions and improvements were made, on the asking of the tenants, by the landlord at his cost and expense, and on account of such improvements and additions, the rent was revised and raised to Rs.700/- per month. After that some more additions and improvements were made in the demised premises on the asking of the tenants but the tenants did not increase the rent, despite demands by the landlord. The matter remained pending in the office of the tenants for quite some time and ultimately they wrote a letter, Ex. R-4, to the landlord offering to pay rent at the rate of Rs.1150/-. The landlord did not accept the offer, as he wanted the rent to be fixed and paid at a higher rate. The tenants then offered to pay rent at the rate of Rs.1883/- per month. Apparently, the offered increase from Rs.700/- to Rs.1150/-, in the first instance, and then to Rs.1883/-, was on account of further additions and alterations made by the landlord on the asking of the tenants. If that is so, the case would fall not under Section 4, as has rightly been observed by the learned Appellate Authority, but under Section 6 of the H.P. Urban Rent Control Act, which is reproduced for ready reference:

> **"6.** Save as provided under section 5, when the fair rent of a building or rented land has been fixed under section 4, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out in the building or rented land at the landlord's expense and if the building or rented land is then in the occupation of a tenant, at his request:
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> Provided that the fair rent as increased under this section shall not exceed the fair rent payable under this Act for a similar building or rented land in the same locality with such addition, improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed."

8. According to Section 4(2)(b) of H.P. Urban Rent Control Act, fair rent of a building constructed after 25th day of January, 1971, the rent

agreed between the landlord and the tenant preceding the date of the application, is to be fixed as fair rent and where no rent has been agreed upon the rent is required to be determined on the basis of the rent prevailing in the locality for similar buildings, on the date of the application.

9. In the present case, the building was admittedly constructed after 25th January, 1971 and the rent had been agreed upon between the parties at the time of the inception of the tenancy. Lateron this rent was increased, because of the additions and improvements made by the landlord on the asking of the tenants. Some more additions and improvements were made by the landlord, again on the asking of the tenants. Therefore, the fair rent, that is to say the rent agreed upon between the parties after the first round of additions and improvements, was required to be increased under Section 6 of the H.P. Urban Rent Control Act when further improvements and additions were made. There is no bar under Section 6, similar to the one in sub-section (5) of Section 4 that the fair rent is not to be fixed from a date prior to the date of the application. Rather a reading of the proviso to Section 6 shows that increase in the fair rent, on account of improvements/additions, may take effect from the date of the completion of additions/improvements etc.

10. For the foregoing reasons, I do not think that the Appellate Authority has committed any error in ordering the payment of the increased fair rent from June 1, 1984, the assumed date of second installment of additions/improvements carried out by the landlord on the asking of the tenants. Consequently, the revision petition is dismissed.

September 27, 2006(sd) **(Surjit Singh), J.**